

March 11, 2010

TO: Jo Buckley

FROM: Teresa Parsons, SPHR
Director's Review Program Supervisor

SUBJECT: Jo Buckley v. Department of Corrections (DOC)
Allocation Review Request ALLO-09-038

On December 4, 2009, I conducted a Director's review telephone conference regarding the allocation of your position. In addition to you, Human Resources Consultants Joanne Harmon, Melissa Bovenkamp, and Nicole Baker also participated in the Director's review conference on behalf of DOC. Your supervisor, Correctional Records Supervisor Jennifer Williams also participated in the conference.

Director's Determination

This position review was based on the work performed for the six-month period prior to March 2008, when DOC's Human Resources (HR) Office began reviewing your position. As the Director's designee, I carefully considered all of the documentation in the file, the exhibits presented during the Director's review conference, and the verbal comments provided by both parties. Based on my review and analysis of your assigned duties and responsibilities, I conclude your position is properly allocated to the Office Assistant 3 classification.

Background

Your position is assigned to the End of Sentence Review (ESR) and Civil Commitment (CC) Program within the Offender Treatment and Reentry Programs Division at DOC (Exhibit B-3). During the Director's review conference, Ms. Bovenkamp explained that the HR Office began reviewing your position, as well as the other positions in your work unit, around March 2008. The HR Office received a Position Review Request (PRR) for your position on July 1, 2008, signed by you in June 2008 and your supervisor, Ms. Williams, on March 11, 2009 (Exhibit B-1). You requested that your Office Assistant 3 position be reallocated to a classification in the Program Specialist or Forms and Records Analyst series. In addition to the PRR, the HR Office reviewed the updated Position Description Form (PDF) for your

position from August 2007 (Exhibit B-2). On May 1, 2009, HR Consultant Joanne Harmon determined your position was appropriately allocated as an Office Assistant 3. Specifically, Ms. Harmon determined the majority of your duties included independently performing complex clerical assignments in support of your supervisor and the ESR Unit operations.

On May 29, 2009, the Department of Personnel received your request for a Director's review of DOC's allocation determination. In your request, you provided a historical perspective of the positions working in the ESR/CC Records Office (Exhibits A-1 and A-3). The following includes the historical background of your work unit:

The End of Sentence Review Committee (ESRC) was established in 1989 as an interagency group reviewing and coordinating services for mentally ill and developmentally disabled offenders approaching release from DOC incarceration and needing services from the Department of Social and Health Services (DSHS). In 1990, the Community Protection Unit (CPU) was established as a result of the Community Protection Act. You indicated that the CPU was "comprised of distinct yet overlapping programs," including ESR and CC.

In 1997, a new law mandated that all sex/kidnapping offenders be leveled for community notification. The scoring tool used to determine the level of a registered sex offender required the need for additional file material pertaining to an offender's criminal history to assist in determining the level. As a result, Correctional Records staff positions were added to the ESR to assist in setting up offender files in preparation for review and leveling by the ESRC.

Currently, the ESRC is comprised of multiple agencies with jurisdiction over the release of sex offenders or those impacted by the release of sex offenders. The ESRC includes representatives from DOC; the Indeterminate Sentence Review Board (ISRB); and DSHS, including the Special Commitment Center (SCC), Juvenile Rehabilitation Administration (JRA), Mental Health Division (MHD), Western State Hospital (WSH), Eastern State Hospital (ESH), and the Child Study and Treatment Center (CSTC). The ESRC uses three distinct subcommittees: End of Sentence Review, Level I/Child Protective Services, and Juvenile Rehabilitation Administration.

In addition, legislation in 2001 required certain sex offenders be sentenced under the Community Custody Board (CCB) sentencing under the ISRB jurisdiction. The Joint Forensic Unit (JFU) was also established in 2002 to centralize records processing and assign forensic psychological evaluations on behalf of the various releasing agencies. DOC assumed the responsibility of investigating all sex offenders' criminal histories and requesting complete copies of all records including prosecutor records, all records of evaluation and/or treatment, the offender's version of the offense, police reports for sexually violent offenses, institutional and mental health records, child protective services records, developmental disabilities division records, and school records.

In 2004, the ESR/CC Program also began responding to public disclosure requests for the Office of the Secretary. Around 2005, the CPU disbanded and the programs under it became divided. The ESR/CC Program became part of the Offender Treatment and Reentry Programs Division.

The following summarizes your viewpoint, as well as your employer's:

Summary of Ms. Buckley's Perspective

Ms. Buckley asserts that in May 2007, the HR Manager at that time had concerns about the duties assigned to the positions in the ESR Program and that positions in similar programs had been reallocated to the Program Specialist series. Ms. Buckley describes the ESR/CC programs as very specialized programs with tasks unique to her work unit. Ms. Buckley states that her position supports the ESR/CC programs and represents the ESR program to internal and external agency representatives. Ms. Buckley further indicates that she responds to inquiries regarding civil commitment requests for information, which she explains are handled differently from public disclosure requests. Ms. Buckley asserts there are specialized components to the work she performs and that her position requires specialized knowledge. As an example, Ms. Buckley indicates she needs to recognize the type of offender sentence to determine how a referral is initially processed. Ms. Buckley asserts her position requires a good understanding of program specific policies and statutes regarding the release of sex offenders. In addition, Ms. Buckley's supervisor, Ms. Williams, asserts the unique positions in the ESR Program pose many issues in recruitment and retention of very knowledgeable staff. Both Ms. Buckley and Ms. Williams believe the duties and responsibilities assigned to Ms. Buckley's position extend beyond the Office Assistant 3 classification.

Summary of DOC's Reasoning

DOC acknowledges Ms. Buckley's position requires knowledge regarding the rules, regulations, policies, and procedures for processing sex/violent offender records and creating files for the statewide ESR/CC and LEN programs. However, DOC contends the majority of duties and responsibilities assigned to Ms. Buckley's position involve complex clerical assignments in support of the ESR/CC and LEN programs. For example, DOC asserts Ms. Buckley's position has been tasked with date stamping and distributing mail for the programs; setting up file folders; logging and entering referral information into offender database systems; requesting additional file material; organizing, correlating, and scanning documents; and assisting with public disclosure and discovery requests by scanning documents or burning information onto a CD. While DOC recognizes there may be overlapping characteristics between certain job classes, DOC contends the overall focus of Ms. Buckley's position is to provide complex clerical support to the ESR/CC and LEN programs. Therefore, DOC believes the Office Assistant 3 classification best describes the overall work assigned to Ms. Buckley's position.

Rationale for Director's Determination

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

Both the PDF from August 2007 and the PRR from July 2008 describe your position's objective or purpose, in part, as follows:

Assists several programs with statewide impact. Provides direct support to the End of Sentence Review/Civil Commitment/Joint Forensic Unit/Less Restrictive Alternative Program Manager [ESR/CC Program Manager Kimberly Acker] . . . and the End of Sentence Review/Civil Commitment and Law Enforcement Notification Programs . . . to work with law enforcement and other stakeholders to promote community safety regarding releasing sex/registerable kidnapping offenders.

A summary of the key work activities includes the following:

- 25% Date stamp and distribute mail for ESR/LEN programs. Set up ESR files, log and enter ESR referrals into DOC database systems and forward to ESR records staff for assignment.
- 25% Request additional file material from DOC facilities/programs for ESR sub-committee for cases referred to the Sexually Violent Predator Committee.
- 25% Scan ESR/CC files and documents into the Liberty Imaging System. Convert those files into Adobe PDF and burn onto Compact Disc (CD). Forward CD to prosecuting attorney, keeping copies of all electronic files. Input and update the Offender Based Tracking System. Provide support to ESR Supervisor and Correctional Records Technicians, scanning and indexing all new information received.
- 15% Redaction of CCB packets created by the Notification Specialist to be forwarded to ISRB.
- 10% Scan, convert to Adobe PDF, and burn to CD all discovery requests.

The above duties are consistent with the work that you and Ms. Williams described during the Director's review conference. You indicated that you and the Office Assistant 3

positions assigned to the Law Enforcement Notification (LEN) unit process incoming mail and set up files. Part of this process includes looking up information in the OBTS or OMNI databases to determine whether an offender's referral falls under the ISRB or CCB, which determines where the file is forwarded after you set it up. Your position has also been tasked with requesting additional information for civil commitment files. Ms. Williams indicated that she prepares a master discovery form that you follow for requesting additional records. You scan records, making sure that all the pages are scanned correctly and blank pages removed and you also burn the records onto a CD to send to prosecuting attorneys. In addition, you redact information in CCB packets prior to an offender reviewing the packet before a civil commitment proceeding.

In addition, Ms. Williams provided an overview of the steps involved in processing files for the ESRC or CC. To illustrate, she provided an ESR Referral Checklist for Records (Exhibit A-10), indicating the first two steps apply to the work performed by your position and other clerical staff in the LEN unit. The following summarizes the first two steps:

- The Offender Management Network Information System (OMNI) (formerly OBTS) generates a referral two years prior to an offender's release date, which prompts the Classification Counselors in the institutions to send the offender's information to your office. You also receive offender referrals from all other releasing agencies, for example, DSHS.
- Once the information reaches your office, clerical staff process the referrals by date stamping and verifying the current institution, earned release date (ERD) in OMNI, and type of offense. Clerical staff then enter a check date into OMNI, create the file by color code, and file the offender's ESR file in the file room or may forward to you for review.

When comparing the assignment of work and level of responsibility to the available class specifications, the class series concept (if one exists) followed by definition and distinguishing characteristics are primary considerations. While examples of typical work identified in a class specification do not form the basis for an allocation, they lend support to the work envisioned within a classification.

The class series concept for the **Program Assistant** reads as follows:

Perform work requiring knowledge and experience that is specific to a program. Organize and perform work related to program operations independent of the daily administrative office needs of the supervisor. Represent the program to clients, participants and/or members of the public.

A program is a specialized area with specific complex components and discrete tasks which distinguish it from the main body of an organization. A program is specific to a particular subject. The specialized tasks involve interpretation of policies, procedures and regulations, budget coordination/administration, independent functioning and typically, public

contact. Duties are not of a general support nature transferable from one program to another. Performance of clerical duties is in support of incumbent's performance of specialized tasks.

Although the Program Assistant is defined as a position performing specialized technical/clerical duties in support of a program activity, the overall focus of your work involves clerical duties in support of correctional records management as part of the Offender Treatment and Reentry Programs. While the records you process pertain to sex offenders, the processing of offender records is not unique to DOC.

Similarly, the **Program Specialist** class series concept describes, in part, assignments in "specialized programs consisting of specific components and tasks that are unique to a particular subject and are separate and distinguished from the main body of an organization." This involves coordinating program services and resources; acting as a program liaison and providing consultation to program participants and outside entities regarding functions of the program. "[p]rogram coordination also requires performance of tasks and application of knowledge unique to the program and not transferable or applicable to other areas of the organization."

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At the **Program Specialist 2** level, the definition includes planning, organizing, directing, coordinating, and overseeing day-to-day operations. Again, processing mail, setting up files, organizing and compiling offender records, and verifying and entering data in the offender based tracking system are not functions unique to DOC. Therefore, the Program Specialist series is not the best fit for your position. Further, the duties described by the Program Specialist 2 definition are not consistent with the majority of clerical duties assigned to your position.

I also reviewed the **Forms and Records Analyst 1** definition, which includes providing assistance with records management and public records disclosure. I understand there may be aspects of the work you perform contained in other job classifications. However, when considering the totality of the work assigned to your position, the nature of work and duties you perform align with the complex clerical assignments encompassed in the Office Assistant 3 classification.

The **Office Assistant** class series concept indicates that positions perform "a variety of clerical duties in support of office or unit operations." Your position fits within this class series concept because you provide clerical support for the ESR unit within the Offender Treatment and Reentry Programs Division. The **Office Assistant 3** is defined as follows:

Under general supervision, independently perform a variety of complex clerical projects and assignments such as preparing reports, preparing, reviewing, verifying and processing fiscal documents and/or financial records, composing correspondence such as transmittals and responses to frequent requests for information, establishing manual or electronic recordkeeping/filing systems and/or data base files, and responding to

inquiries requiring substantive knowledge of office/departmental policies and procedures. Positions may perform specialized complex word processing tasks in a word processing unit or complex rapid data inquiry and/or entry functions.

The Office Assistant 3 distinguishing characteristics include the following:

Assignments and projects are of a complex nature. Independent performance of complex clerical assignments requires substantive knowledge of a variety of regulations, rules, policies, procedures, processes, materials, or equipment. Problems are resolved by choosing from established procedures and/or devising work methods. Guidance is available for new or unusual situations. Deviation from established parameters requires approval. Work is periodically reviewed to verify compliance with established policies and procedures. . . .

Consistent with your position, Office Assistant 3 positions work under general supervision and independently perform a variety of complex clerical projects and assignments, including assignments requiring substantive knowledge of a variety of regulations, rules, policies, procedures, processes, and materials. Your position requires substantive knowledge regarding sex offender regulations and policies to determine the correct procedure for processing incoming referrals and recognizing specific criteria when looking in the offender based tracking systems. Your working knowledge of sex offender records helps you identify and resolve problems when initially processing the case files or completing a request for information through the discovery process. Further, while not exact, the typical work examples most in line with the duties and responsibilities assigned to your position include:

- Resolving problems and responding to inquiries regarding rules, regulations, policies, department procedures;
- Reviewing documents and records for completeness, accuracy, and compliance with rules and determining or explaining action necessary to achieve compliance or approval;
- Reviewing, verifying for accuracy, and investigating discrepancies to ensure compliance with established procedures and policies;
- Establishing and maintaining complex electronic or manual file systems or data base files;
- Preparing or assisting in the preparation, compilation, and coordination of records;
- Compiling material requiring specialized knowledge and judgment in selection and treatment of data and format.

It is clear the work you perform is very important and valued by your agency. A position's allocation is not a reflection of performance or an individual's ability to perform higher-level work. Rather, it is based on a comparison of duties and responsibilities to the available job classifications. The Office Assistant 3 classification best encompasses the overall scope of work and level of responsibility assigned to your position.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The mailing address for the Personnel Resources Board (PRB) is P.O. Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located at 600 South Franklin, Olympia, Washington. The main telephone number is (360) 664-0388, and the fax number is (360) 753-0139.

If no further action is taken, the Director's determination becomes final.

c: Joanne Harmon, DOC
Lisa Skriletz, DOP

Enclosure: List of Exhibits

Jo Buckley v. Dept. of Corrections (DOC)

ALLO-09-038

List of Exhibits

A. Jo Buckley Exhibits

1. Letter requesting a Director's Review dated May 26, 2009
2. Agency Allocation determination letter dated May 1, 2009
3. Community Protection Unit – End of Sentence Review – Civil Commitment – Joint Forensic Unit – Least Restrictive – Alternative Program
4. Letter from Richard Packard, Ph.D. to Victoria Roberts, CPU, regarding Forensic Evaluation Unit. (14 pgs) 1/27/1999
 - a) Forensic Services Unit
 - b) Post Evaluation Time
 - c) Forensic Evaluation Unit Briefing document
 - d) Memorandum – 7/25/2000 Proposed DCO/DSHS SVP Forensic Unit
 - e) Email dated march 13, 2002 JFU: Investigator Information
 - f) Letter dated January 17, 2003 Re: ISRB Records in Sex Predator cases
 - g) Memorandum of Understanding between Dept. of Social and Health Services The Office of the Attorney General.
 - h) Email dated April 14, 2003 RE: Joint Forensic Unit
 - i) Email dated October 7, 2008 with attached AGO Investigator/Analyst Class Specification 429C.
5. Community Protection Unit/End of Sentence Review Records Staff Timeline
6. Chart explaining type of document, source, and release of document
7. Position Review Request dated and signed (received in HR 7/1/2008)
With Position Description attached signed and dated 08/2007
8. Organizational Chart – Offender Treatment and Reentry Programs
9. Sex Offender laws and Applications
10. ESR Referral Checklist for Records
11. End of Sentence Review/Law Enforcement Notification Program Process

B. Dept. of Corrections Exhibits

1. Position Review Request dated stamped July 1, 2008
2. Position Description, dated August 2007
3. Offender Treatment and Re-Entry Programs Division Organizational Chart
4. Class Specification: Office Assistant 3
5. Class Specification: Office Assistant 1
6. Class Specification: Forms and Records Analyst 1
7. Class Specification: Program Assistant